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**DEC 16 1996**

December 16, 1996

Federal Communications Commission  
Office of Secretary

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, NW  
Room 222  
Washington, D.C. 20554

Re: Amendment of the Commission's Rules to Establish Part 27, the Wireless  
Communications Service  
GN Docket No. 96-228

Dear Mr. Caton:

Transmitted herewith and filed on behalf of Total Telecommunications Services, Inc. are an original and 10 copies of Reply Comments in the above captioned proceeding.

Should you have any questions regarding these Reply Comments, please contact the undersigned.

Very truly yours,



David A. Irwin

Encl.

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Before the  
FEDERAL COMMUNICATIONS COMMISSION DEC 16 1996  
Washington, DC 20554

Federal Communications Commission  
Office of Secretary

In the Matter of )  
 )  
Amendment of the Commission's Rules to )  
Establish Part 27, the Wireless ) GN Docket No. 96-228  
Communications Service )  
  
To: The Commission

**REPLY COMMENTS OF TOTAL TELECOMMUNICATIONS SERVICES, INC.**

David A. Irwin  
Its Attorney

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December 16, 1996

## **EXECUTIVE SUMMARY**

In a Notice of Proposed Rulemaking, the Commission has established the Wireless Communications Service ("WCS") in the 2305-2320 and 2345-2360 MHz bands and proposes to auction these frequencies for the provision of "any fixed, mobile, radiolocation services or satellite Digital Audio Radio Services ("satellite DARS")." The Commission proposes to license WCS based on large geographic service areas and does not propose to award bidding preferences.

Total Telecommunications Services, Inc. respectfully submits that the Commission should license WCS based on smaller EA-like service areas in order to ensure that small businesses and rural telephone companies are able to participate in the auction process. In addition, the Commission should grant bidding credits and installment payments in order to ameliorate the difficulty small businesses and rural telephone companies face in attempting access capital.

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

In the Matter of	)	
	)	
Amendment of the Commission's Rules to	)	
Establish Part 27, the Wireless	)	GN Docket No. 96-228
Communications Service	)	

To: The Commission

**REPLY COMMENTS OF TOTAL TELECOMMUNICATIONS SERVICES, INC.**

Total Telecommunications Services, Inc. ("TTS") by its attorneys and pursuant to § 1.415 of the Commission's rules, respectfully submits these Reply Comments in response to the Notice of Proposed Rule Making ("NPRM"), released November 12, 1996, whereby the Commission proposed to establish a new Wireless Communications Service ("WCS") in the 2305-2320 and 2345-2360 MHz bands<sup>1</sup>.

**BACKGROUND**

TTS is a competitive local exchange carrier ("CLEC") in rural Big Cabin Oklahoma that presently offers terminating switched access service to interexchange carriers ("IXCs") and in the future plans to expand its offerings. As is the situation with many other small businesses and rural telephone companies, TTS will be precluded from participating in the WCS auction should the Commission license the service on a nationwide basis and auction licenses without providing small business with preferences such as bidding credits and allow for installment payments.

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<sup>1</sup> Amendment of the Commission's Rules to Establish Part 27, the Wireless Communications Service ("WCS"), Notice of Proposed Rule Making, FCC 96-441 (released Nov. 12, 1996) [hereinafter *NPRM*].

## COMMENTS

### **A. WCS Should be Licensed based on Small Geographic Areas Such as EA-like Service Areas**

TTS supports the Comments filed by the Rural Telecommunications Group ("RTG")<sup>2</sup> and urges the Commission to adopt a licensing scheme whereby the Commission issues WCS licenses based on small geographic areas based on the 172 Commerce Department defined economic areas plus three additional areas: Guam and the Northern Marian Islands, Puerto Rico and the United States Virgin Islands, and American Samoa ("EA-Like" service areas) as it proposed in the *GWCS Second Report and Order*.<sup>3</sup> As RTG states in its comments, the Commission found that using smaller licensing areas would "increase the opportunities for small businesses and other designated entities to obtain GWCS licenses."<sup>4</sup> The same is true for licensing WCS. By licensing WCS on a nationwide basis, the Commission is effectively granting preferences to large bidders to the detriment of small businesses. Licensing WCS on small geographic areas allows small businesses and rural telephone companies to acquire licenses in niche markets, while allowing large bidders to aggregate licenses and serve larger areas.

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<sup>2</sup> Comments of Rural Telecommunications Group to the Amendment of the Commission's Rules to Establish Part 27, the Wireless Communications Service ("WCS"), Notice of Proposed Rule Making, FCC 96-441 (released Nov. 12, 1996) [hereinafter *RTG Comments*].

<sup>3</sup> *Allocation of Spectrum Below 5 GHz Transferred from Federal Government Use*, GWCS Second Report and Order, ET Docket No. 94-32 (released Aug. 2, 1995) [hereinafter *GWCS Second Report and Order*].

<sup>4</sup> *RTG Comments* at 4 citing, *GWCS Second Report and Order* at ¶ 56.

**B. Partitioning and Disaggregation Provisions do not Adequately Ensure Small Businesses the Opportunity to Enter the WCS Marketplace**

The Commission's proposed partitioning and disaggregation provisions do not sufficiently ensure that small businesses and rural telephone companies will be able to enter the WCS marketplace. Limiting small businesses access to WCS through partitioning and disaggregation leaves small businesses at the mercy of winning licensees. There are no guarantees that winning bidders will relinquish their licenses, and in the event that a license is partitioned or disaggregated, there is no guarantee that a small business will be successful in obtaining it.

**C. The Commission's Auction Procedures Should Include Auction Preferences for Small Businesses and Rural Telephone Companies.**

TTS respectfully submits that the Commission's proposed auction procedures and licensing scheme preclude small businesses and rural telephone companies from effectively participating in the provision of WCS in violation of § 309(j) of the Communications Act of 1934, as amended (the "Act"). In order to ensure that small businesses rural telephone companies are given the opportunity to win licenses by auction, the Commission should implement auction preferences, such as bidding credits and installment payment plans.

As Congress and the Commission have both recognized, small businesses face many market entry barriers.<sup>5</sup> One such barrier is small businesses' difficulty in obtaining access to capital. The Commission has found that granting small businesses bidding credits and installment payments for new services ameliorates this problem. Installment payments give small businesses the opportunity to participate in auction proceedings by granting them additional

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<sup>5</sup> See, 47 U.S.C. § 257 and *Notice of Inquiry*, (GN Docket No. 96-113, FCC 96-216 (released May 21, 1996)).

time to pay a winning bid at a low interest rate. Bidding credits give small businesses a payment discount thereby reducing the amount of capital they must raise. Both of these procedures alleviate the hardship faced by small businesses when attempting to enter new markets.

However, as RTG states, the Commission has found that installment payments are not possible due to the Appropriations Act of 1997<sup>6</sup> deadline. If the Commission finds it cannot grant installment payment plans, it should grant a 15% bidding credit to small businesses and rural telephone companies. Although this credit is larger than the credit granted in the PCS F block auction, the greater bidding credits will be necessary if installment payments are not be available. In addition, the Commission should adopt the same definition of "small businesses" that it adopted for the PCS F block in order to ensure that all small businesses are given the opportunity to participate in providing WCS.<sup>7</sup>

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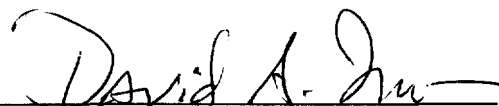
<sup>6</sup> Omnibus Consolidated Appropriation Act, 1997, P.L. 104-208, Stat. 3009 (1996) [hereinafter Appropriations Act of 1997).

<sup>7</sup> Under Section 24.720 of the Commission's rules, small businesses as are defined as an entity that, together with its affiliates and persons and entities that hold interests in such entities and their affiliates, with average annual gross revenues that are not more than \$40 million for the preceding three years. 47 C.F.R. § 24.720.

## CONCLUSION

TTS respectfully urges the Commission to issue WCS licenses on an EA-like basis to ensure that small businesses and rural telephone companies have the opportunity to compete in WCS. In addition, the Commission should award small businesses and rural telephone companies bidding preferences due to their inability to access capital.

Respectfully Submitted

A handwritten signature in black ink, appearing to read "David A. Irwin", written over a horizontal line.

David A. Irwin

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